

**Renée E. Rothauge**, OSB #903712  
E-Mail: renee.rothauge@bullivant.com  
**Laura Caldera Taylor**, OSB #993786  
E-Mail: laura.taylor@bullivant.com  
BULLIVANT HOUSER BAILEY PC  
300 Pioneer Tower  
888 SW Fifth Avenue  
Portland, Oregon 97204-2089  
Telephone: 503.228.6351  
Facsimile: 503.295.0915  
Attorneys for Defendants Urban Housing  
Development, LLC, an Oregon Company,  
Stewardship Realty, an Oregon Company,  
Vladimir Ozeruga, an Individual

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
(PORTLAND)

PALAZZO VINTAGE HOMES, LLC,

Plaintiff,

v.

URBAN HOUSING DEVELOPMENT,  
LLC, an Oregon company, STEWARDSHIP  
REALTY, an Oregon company, DEZ  
DRAFTING & DESIGN LLC, an Oregon  
company; VLADIMIR OZERUGA, an  
individual, E & O VENTURES, LLC, an  
Oregon company; and SLAVIK  
DEZHNYUK, an individual,

Defendants.

Civil No.: 09-CV-952-JE

**DEFENDANTS URBAN HOUSING  
DEVELOPMENT, LLC;  
STEWARDSHIP REALTY; AND  
VLADIMIR OZERUGA'S ANSWER  
AND AFFIRMATIVE DEFENSES TO  
SECOND AMENDED COMPLAINT**

For Answer to Plaintiff's Second Amended Complaint for Copyright Infringement  
and False Designation of Origin ("SAC"), Defendants Urban Housing Development, LLC

**Bullivant|Houser|Bailey PC**

300 Pioneer Tower  
888 SW Fifth Avenue  
Portland, Oregon 97204-2089  
Telephone: 503.228.6351

**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO  
SECOND AMENDED COMPLAINT**

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(“UHD”), Stewardship Realty, LLC (“Stewardship”), and Vladimir Ozeruga (“Ozeruga”) (collectively “Answering Defendants”) admit, deny, and allege as follows:

1.

In answer to ¶ 1 of the SAC, the Answering Defendants admit that Plaintiff alleges claims under the Copyright and Lanham Acts, but deny that they have infringed any valid right of Plaintiff. Except as expressly admitted herein, the Answering Defendants deny the allegations contained in ¶ 1 of the SAC.

2.

The Answering Defendants admit the allegations in ¶ 2 of the SAC.

3.

In answer to ¶ 3 of the SAC, the Answering Defendants admit that they are residents of, or engage in certain business activities within, the State of Oregon, but deny that they have infringed any valid right of Plaintiff or that they have caused any injury to Plaintiff. Except as expressly admitted herein, the Answering Defendants deny the allegations contained in ¶ 2 of the SAC.

4.

In answer to ¶ 4 of the SAC, the Answering Defendants admit that venue is proper in this Court, but deny the remaining allegations contained in ¶ 4.

5.

In answer to ¶ 5 of the SAC, the Answering Defendants admit that venue is proper in this Court, but deny that the remaining allegations contained in ¶ 5 of the SAC.

6.

The Answering Defendants are without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 6 of the SAC and therefore deny the same.

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7.

The Answering Defendants are without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 7 of the SAC and therefore deny the same.

8.

The Answering Defendants admit the allegations in ¶ 8 of the SAC.

9.

The Answering Defendants admit the allegations in ¶ 9 of the SAC.

10.

The Answering Defendants are without sufficient information to form a belief as to the truth or falsity of the matters asserted in ¶ 10 of the SAC, and therefore deny the same.

11.

In answer to ¶ 11 of the SAC, the Answering Defendants admit that Ozeruga resides in Oregon. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 11 of the SAC.

12.

The Answering Defendants are without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 12 of the SAC and therefore deny the same.

13.

The Answering Defendants are without sufficient information to form an opinion as to the truth or falsity of the matters asserted in ¶ 13 of the SAC and therefore deny the same.

14.

The Answering Defendants re-allege and incorporate by reference the allegations in Paragraphs 1 through 13 above as though fully set forth herein.

15.

The Answering Defendants deny the allegations in ¶ 15 of the SAC.

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**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO  
SECOND AMENDED COMPLAINT**

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16.

In answer to ¶ 16 of the SAC, the Answering Defendants admit that a copyright application was filed for a work entitled, “Bella Amica,” and that a copyright certificate was issued for said work. The Answering Defendants deny that Plaintiff was an active limited liability company at the time the application was filed and further deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, and/or that Plaintiff owns any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 16 of the SAC.

17.

In answer to ¶ 17 of the SAC, to the extent the allegations state conclusions of law, no answer is required, and therefore the Answering Defendants deny the same. The Answering Defendants further deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, and/or that Plaintiff owns any legally protectable rights to the “Bella Amica” architectural work.

18.

In answer to ¶ 18 of the SAC, the Answering Defendants admit that UHD was involved in the construction and/or sale of homes located at 8160 N. Haven Avenue, 8166 N. Haven Avenue, 8247 N. Fiske Avenue and 6628 N. Kerby Ave. The Answering Defendants deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that UHD infringed upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 18 of the SAC.

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19.

In answer to ¶ 19 of the SAC, the Answering Defendants admit that Ozeruga, the father of UHD and Stewardship's principals, was aware of, and participated, individually, in certain limited aspects of UHD's construction of one or more Accused home. The Answering Defendants deny that the work identified in the copyright application and registration for the "Bella Amica" architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the "Bella Amica," that Ozeruga infringed, directly or contributarily, upon any legally protectable rights to the "Bella Amica" architectural work, and/or that Ozeruga benefitted financially from the construction and/or sale of any Accused home. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 19 of the SAC.

20.

In answer to ¶ 20 of the SAC, the Answering Defendants admit that Stewardship listed one or more of the Accused homes for sale. The Answering Defendants deny that the work identified in the copyright application and registration for the "Bella Amica" architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the "Bella Amica," and/or that Stewardship infringed, directly or contributarily, upon any legally protectable rights to the "Bella Amica" architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 20 of the SAC.

21.

In answer to ¶ 21 of the SAC, the allegations contained therein are not directed to the Answering Defendants and therefore no answer is required. To the extent an answer is required, the Answering Defendants deny that the work identified in the copyright application and registration for the "Bella Amica" architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the "Bella Amica," and/or

that E & O infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations contained in ¶ 21 of the SAC.

22.

In answer to ¶ 22 of the SAC, the allegations contained therein are not directed to the Answering Defendants and therefore no answer is required. To the extent an answer is required, the Answering Defendants deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that E & O infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations contained in ¶ 22 of the SAC.

23.

In answer to ¶ 23 of the SAC, the allegations contained therein are not directed to the Answering Defendants and therefore no answer is required. If an answer is required, the Answering Defendants admit that Defendant DEZ prepared certain plans used in the construction of one or more Accused home. The Answering Defendants deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that Defendant Dez infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 23 of the SAC.

24.

In answer to ¶ 24 of the SAC, the allegations contained therein are not directed to the Answering Defendants and therefore no answer is required. If an answer is required, the Answering Defendants admit that Defendant Dezhnyuk had some involvement in the

preparation of certain plans used in the construction of one or more Accused home. The Answering Defendants deny that the work identified in the copyright application and registration for the “Bella Amica” architectural design was an original work of authorship, that Plaintiff owns any legally protectable rights to the “Bella Amica,” and/or that Defendant Dezhnyuk infringed, directly or contributarily, upon any legally protectable rights to the “Bella Amica” architectural work. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 24 of the SAC.

25.

The Answering Defendants deny the allegations in ¶ 25 of the SAC.

26.

The Answering Defendants deny the allegations in ¶ 26 of the SAC.

27.

The Answering Defendants deny the allegations in ¶ 27 of the SAC.

28.

The Answering Defendants re-allege and incorporate by reference the allegations in Paragraphs 1 through 27 above as though fully set forth herein.

29.

The Answering Defendants admit that UHD and/or Defendant DEZ authored the design of one or more Accused home. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 29 of the SAC.

30.

The Answering Defendants deny the allegations in ¶ 30 of the SAC.

31.

The Answering Defendants admit that Stewardship Realty advertised for sale one or more Accused home. Except as expressly admitted herein, the Answering Defendants deny the allegations in ¶ 31 of the SAC.

32.

Defendants deny the allegations in ¶ 32 of the SAC.

33.

Defendants deny the allegations in ¶ 33 of the SAC.

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

(Failure to State a Claim)

34.

Plaintiff's SAC fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

(Invalid Copyright Registration: Insufficient Original Expression)

35.

Plaintiff's claims are barred because the architectural work that is the subject matter of Plaintiff's claims lacks sufficient original expression to be entitled to protection under the Copyright Act.

**THIRD AFFIRMATIVE DEFENSE**

(Invalid Copyright Registration: Public Domain)

36.

Plaintiff is not entitled to prevail on its claims because it is attempting to assert ownership to materials that have long been in the public domain.

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FOURTH AFFIRMATIVE DEFENSE

(No Copyright Infringement: No Copying)

37.

To the extent any elements of the asserted work are entitled to copyright protection, which the Answering Defendants expressly deny, Plaintiff's claims are barred because the Answering Defendants did not copy the asserted work.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

38.

To the extent any elements of the asserted work are entitled to copyright protection, which the Answering Defendants expressly deny, Plaintiff's claims are barred because it comes to this Court with unclean hands.

SIXTH AFFIRMATIVE DEFENSE

(Good Faith)

39.

To the extent any elements of the asserted work are entitled to copyright protection, which the Answering Defendants expressly deny, Plaintiff's claims are barred because the Answering Defendants at all times acted in good faith.

SEVENTH AFFIRMATIVE DEFENSE

(No Right to Statutory Damages or Attorneys Fees)

40.

Plaintiff is not entitled to recover statutory damages or attorney's fees.

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EIGHTH AFFIRMATIVE DEFENSE

(No Standing)

41.

Plaintiff lacks standing to bring the instant claims.

Wherefore the Answering Defendants pray for judgment in their favor as follows:

1. Denying and dismissing Plaintiff's Second Amended Complaint against them;
2. Awarding the Answering Defendants their costs, fees and disbursements

herein;

3. Such other relief as the Court deems appropriate.

DATED: January 25, 2010

BULLIVANT HOUSER BAILEY PC

By /s/ Laura Caldera Taylor

**Renée E. Rothauge**

OSB #903712

**Laura Caldera Taylor**

OSB #993786

Telephone: 503.228.6351

Attorneys for Defendants Urban Housing  
Development, LLC, an Oregon Company,  
Stewardship Realty, an Oregon Company, Dez  
Drafting & Design LLC, an Oregon  
Company, Vladimir Ozeruga, an Individual

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